

REMARKS

Claims 6-13, 15-18, 20, and 25-30 are pending. Claims 6, 25, and 28 are currently amended. Claims 1-5, 14, 19, and 21-24 were previously cancelled without prejudice. Applicants wish to thank the Examiner for the indication of allowable subject matter in claim 20. No new matter has been added.

Independent claim 6 is amended to more particularly point out that the release mechanism is “for securing the outer stem to the rod.” Support for this amendment is found, *inter alia*, at pages 7-8 of the specification as filed.

Independent claims 25 and 28 are amended to more particularly point out that the rod is “releasably secured to the outer stem.” Support for these amendments is found, *inter alia*, at pages 7-8 of the specification as filed.

No new matter has been added by these amendments.

Rejections under 35 U.S.C. § 102(b)

Claims 6, 7, 9-12, 18, and 25-30 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Number 5,669,915 to Caspar et al. (“Caspar”). Applicants submit these rejections should be withdrawn.

Caspar describes a drilling jig for surgical drilling tools consisting of two sleeves 2 joined by arms 3 which are pivotable about an axis of rotation “perpendicular to the plane formed by the two sleeves 2.” (See Caspar at 3:25-33, Fig. 1). More specifically, this “axis of rotation is formed by a screw 5 which passes through both arms 3.” (*Id.* at 3:33-34, Fig. 4). Thus, the rotation of one sleeve relative to another necessarily results in a change in relative angulation between the two sleeves 2.

Independent claim 6 recites an outer stem and a drill guiding barrel “movably attached to the outer stem at a substantially *fixed* angle with respect to the outer stem.” As discussed above, however, when one sleeve 2 in Caspar moves relative to the other sleeve 2, the angle between the sleeves 2 must change because the axis of rotation is formed by screw 5, which is situated perpendicular to the sleeves. (See Caspar at Fig. 4). Thus, as Caspar fails to disclose each and every element of claim 6, the rejection of claim 6 should be withdrawn. As claims 7, 9-12, and 18 depend from claim 6, Applicants respectfully submit that the rejections of these claims should be withdrawn as well, for at least this reason.

Independent claim 25 recites an outer stem having a first longitudinal axis, and a drill guiding barrel “being pivotable about an axis of rotation...substantially *parallel* to the first longitudinal axis.” Caspar discloses just the opposite — one sleeve is pivotable relative

to the other about an axis of rotation “perpendicular to the plane formed by the two sleeves 2.” (See Caspar at 3:25-33). Thus, as Caspar fails to disclose each and every element of claim 25, the rejection of claim 25 should be withdrawn. As claims 26-27 depend from claim 25, Applicants respectfully submit that the rejections of these claims should be withdrawn as well, for at least this reason.

Independent claim 28 recites an outer stem and a drill guiding barrel “pivotably attached to the outer stem... such that the drill guiding barrel can pivot while maintaining a substantially *fixed* angle with respect to the outer stem.” As discussed above, however, when one sleeve 2 in Caspar moves relative to the other sleeve 2, the angle between the sleeves 2 must change because the axis of rotation is formed by screw 5, which is situated perpendicular to the sleeves. (See Caspar at Fig. 4). Thus, as Caspar fails to disclose each and every element of claim 28, the rejection of claim 28 should be withdrawn. As claims 29-30 depend from claim 28, Applicants respectfully submit that the rejections of these claims should be withdrawn as well, for at least this reason.

Claims 6-8, 10, 13, 15-16, 18, and 25-30 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent Number 6,342,057 to Brace et al. (“Brace”). Applicants submit these rejections should be withdrawn.

Brace describes a remotely aligned surgical drill guide having an alignment device 110 including a taper pin 204 attached to actuation bar 116, and a bushing 206 having a guide bore 208. (Brace at 6:56-64, Figs. 6-7). “[T]aper pin 204 is configured and dimensioned to be slidably received within guide bore 208 of bushing 206,” and is moved by the actuation of actuation bar 116. (*Id.* at 9:42-56; Figs. 6-10, 14-15). When taper pin 204 is moved sufficiently forward, it urges outward resilient fingers 214. (*Id.* at 10:34-46, Fig. 7).

Independent claim 6 recites “a release mechanism for *securing* the outer stem to the rod,” and independent claims 25 and 28 each recite “a rod releasably *secured* to the outer stem.” Brace fails to disclose these recitations — though taper pin 204 is slidable within bore 208, and can engage the inner surface of fingers 214, at no time is taper pin 204 “secured” to bushing 206. This stands in contrast to claims 6 (“a release mechanism for *securing* the outer stem to the rod”) and claims 25 and 28 (“a rod releasably *secured* to the outer stem”), an exemplary embodiment of which is described at pages 7-8 of the present specification by the interaction of plate holder 140, outer stem 226, and release sleeve 220. Thus, as Brace fails to disclose each and every element of independent claims 6, 25, and 28, the rejections of claims 6, 25, and 28 should be withdrawn. As claims 7-8, 10, 13, 15-16, 18,

26-27, and 29-30 depend from one of claims 6, 25, and 28, Applicants respectfully submit that the rejections of these claims should be withdrawn as well, for at least this reason.

Rejection under 35 U.S.C. § 103

Claim 17 was rejected under 35 U.S.C. § 103 as being unpatentable over Brace. As discussed above, Brace fails to disclose each and every element of independent claim 6, upon which claim 17 depends. Thus, Applicants submit the rejection of claim 17 should be withdrawn, for at least this reason.

CONCLUSION

It is believed that claims 6-13, 15-18, 20 and 25-30 are in condition for allowance. Should the Examiner not agree with Applicants' position, then a personal or telephonic interview is respectfully requested to discuss any remaining issues.

No fee is believed due for this response. Should any fee(s) be due at this time, please charge such fee(s) to Jones Day Deposit Account No. 503013.

Respectfully submitted,

Date: December 20, 2006

s/Brent P. Ray 54,390

Brent P. Ray (Reg. No.)

For: Brian M. Rothery

(Reg. No. 35,340)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3939